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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/796,798

03/09/2004

Sean Haney

D-1218 R7

3157

28995

7590

02/25/2008

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EXAMINER

BUTLER, MICHAEL E

ART UNIT

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3653

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/796,798	<b>Applicant(s)</b> HANEY ET AL.	
	<b>Examiner</b> MICHAEL E. BUTLER	<b>Art Unit</b> 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 23-27 and 29-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Priority*

1. Applicant's claim of priority to application 60453397 filed 03/10/2003 is acknowledged.

### *Election/Restriction*

2. Applicant's election of invention I with traverse on 4/23/2007 of the restriction requirement of 4/3/07 is acknowledged and made final.
3. Claims 23-27 and 29-37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.
4. The applicant argues the restriction requirement ought be withdrawn for lack of burden because the examiner the groups involve a common search and examination. However, separate examination and search would be necessary on the disparate directions the search and examination the involved in the nonelected claims on the elements not found in group I. No common prior art anticipating or obviating the group II and III claims was noticed in the search of the Group II claims, further evidencing distinction between groups I and II.

MPEP 806.5(c) and 806.5(c) illustrate the And the group I claims relative group II Aspecific Bbroad vs. Abroad Bspecific. Separate features upon which patentability might be based can be found in groups Aspecific or Bspecific. The analogous arguments apply in contrasting group I to group III and group II to group III.

If the group relationship between group I and II exists as argued by the applicant, then patentability of the nonelected group rests solely on a patentability of the combination.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (c) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Fennelly et al.

5454332 which discloses all the claimed elements including:

(Re: cl 1) Apparatus comprising: an automated banking machine including a housing (1) ; a cash dispenser in supporting connection with the housing (c2 L 14-52); an opening extending in the housing wherein items moving at least one of into and out of the housing move through the opening (c2 L 54-c3 L ; c3 L 2-26 ); a gate (22) moveably mounted in supporting connection with the housing and movable between a closed position wherein the gate prevents access from outside the housing into the housing through the opening, and an open position wherein access into the housing is enabled through the opening from outside the housing; a bezel in surrounding relation of the opening (c3 L 32-47), wherein the bezel and the gate include at least one interengaging projection and recess, wherein in the closed position of the gate the at least one protection extends in the recess ( 32 ; c3 L 32-47).

7. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Hiurose et al.

4473157 which discloses all the claimed elements including:

(Re: cl 1) Apparatus comprising: an automated banking machine including a housing ; a cash dispenser in supporting connection with the housing (3 L 15-53 ); an opening extending in the housing wherein items moving at least one of into and out of the housing move through the opening (above 50) ; a gate moveably mounted in supporting connection with the housing and movable between a closed position wherein the gate prevents access from outside the housing into the housing through the opening, and an open position wherein access into the housing is enabled through the opening from

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outside the housing; a bezel in surrounding relation of the opening, wherein the bezel and the gate include at least one interengaging projection and recess, wherein in the closed position of the gate the at least one protection extends in the recess (50 fig 4)  
(Re: cl 2) and further comprising an actuator member including a cam surface thereon (60/59 fig 4), wherein the gate moves between the opened and closed positions responsive to movement of the actuator member (37 14" fig 6)  
(Re: cl 3)(2) wherein the gate member in moving between the open and closed positions moves generally perpendicular to the actuator member (54 fig 4 )

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim(s) 1-28 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Fennelly et al. 5454332 in view of Hirose et al. 4473157 herein the former discloses the elements previously discussed and further discloses:

(Re: cl 4) transport adjacent the opening (pocket formed by 24-26; c

(Re: cl 5) gate is pivotally mounted is supporting connection (about pivot 23)

(Re: cl 6) gate connected to the side wall through at least one pivot ( pivot 23 mated in sidewall)

Re: cl 9) bezel includes at least one side wall (9)

(Re: cl 15) transport comprises roll (16)

(Re: cl 12) at least one pin in connection with sidewall and pin extends into the slot (32)

(Re: cl 16) side wall includes at least one vertically extending shaft slot ( 34)

(Re: cl 17) transport moves items along first direction (17 fig 1)

(Re: cl 18) gate includes inward extending portion (37)

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(Re: cl 19) projection in supporting connection with bezel (lower right hand corner fig 6)

(Re: cl 20) bezel and inward portion include a plurality of projections and recesses (lower right hand corner fig 6)

(Re: cl 21) gate has outward extending portion (14''')

(Re: cl 28) a guide for transport in supporting connection with the side wall (fig 5 unlabeled portions for guiding notes into pocket above 38 adjacent 11 )

(Re: cl 15) transport comprises at least one roll supported on at least one shaft (16).

The latter discloses any elements not inherently taught by the former including:

(Re: cl 6) cam follower in operative connection with gate (c4 L 41-65)

(Re: cl 7) cam surface bounds slot (c4 L 41-65)

(Re: cl 8) cam slot includes enlarged slot area (c4 L 41-65)

( (Re: cl 10) actuator moves generally horizontal direction and cam has at least two horizontal extensions (c4 L 41-65)

(Re: cl 11) actuator member move horizontally and slot includes two horizontal end portions (c4 L 41-65)

(Re: cl 13) actuator slot includes an enlargement (c4 L 41-65)

(Re: cl 14) actuator moves gate (c5 L 23-45)

(Re: cl 22) container for deposit envelope (9).

It would have been obvious for Fenelly et al. to use a cam to actuate the gate to coordinate the transport movement with the gate movement as taught by Hirose et al. and come up with the instant invention. It would have been obvious for Fenelly et al. to use a gate actuating horizontally directed cam actuator moving in a horizontal direction to deep within the unit as taught by Hirose et al. and come up with the instant invention. It would have been obvious for Fenelly et al. to include a deposit container to secure customer deposits as taught by Hirose et al. and come up with the instant invention.

*Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/MICHAEL E. BUTLER/

Examiner, Art Unit 3653

/Patrick H. Mackey/

Supervisory Patent Examiner, Art Unit 3653